

SECTION 10 CONDUCTING A TREE SALE

Each spring and fall, Michigan's Conservation Districts sell a variety of high quality conservation seedlings for erosion control, wildlife habitat, reforestation, windbreaks, and many other conservation purposes. Seedling varieties generally include wildlife shrubs, hardwoods, conifers (evergreens), aquatic plants, grasses, ground covers and wildflowers. Landowners can purchase seedlings and other products from their local Conservation District.

Statutory Requirements Pertaining to Conservation Districts that Produce and Sell or Deal in Tree Planting Stock

The sale and distribution of nursery stock in Michigan is regulated by the Michigan Department of Agriculture under the Insect Pests and Plant Diseases Act (Public Act 189 of 1931, as amended). The Act's provisions apply to Conservation Districts operating a tree nursery and those reselling nursery stock. Following are the minimum requirements:

A. Districts Owning and Operating Nurseries:

Before nursery stock can be legally moved, all plant material must be inspected each year and covered by a Certificate of Inspection issued by the Michigan Department of Agriculture. A copy of the Certificate of Inspection, which may be reproduced by the District for that purpose, must accompany each plant shipment leaving the nursery. Certificates of Inspection are valid from November 1 through October 31 of the following year.

B. Districts Reselling Nursery Stock to Landowners:

Districts MUST APPLY for a Dealer's Certificate to the Pesticide and Plant Pest Management Division of the Michigan Department of Agriculture, P.O. Box 30017, Lansing, Michigan 48909. Dealer's Certificates are renewable prior to October 31. Please allow four weeks for processing. Applications should indicate the sources of the nursery stock. If there is a change in supplier after the Dealer's Certificate is issued, the Division must be notified to that effect in writing. The District may reproduce the Dealer's Certificate in quantity once it is issued. A copy must accompany each shipment of planting stock.

C. Native Plant Material:

Any plant material grown in the wild that is to be moved, sold, or given away is to be inspected and accompanied by an inspection certificate of the Michigan Department of Agriculture.

American Beachgrass is to be considered under Public Act 189 of 1931. The Michigan Department of Agriculture, Pesticide and Plant Pest Management Division must be contacted for inspection whenever American Beachgrass is transported across a legal right of way, i.e., road.

D. Commercial Pesticides Applicator's License:

If your District charges for the application of pesticides or for the use of a no-till planter or drill, sprayer, or other equipment, under the operation of a District employee through which a pesticide is being applied, the District must obtain a Commercial Applicator Certification and a Commercial Pesticide Applicators License.

NOTE: The District must still obtain a commercial pesticides applicator's license even if a contractor is doing the spraying.

To obtain your commercial license, your District must show proof of liability insurance and pass the commercial applicator's license test.

License Renewal: Each license expires on December 31. The license may be renewed by meeting the same requirements as for a new license.

E. Insurance Liability Requirements:

1. Fumigation and Right-of-Way Pest Control:

- a. Not less than \$100,000 for bodily injury for each occurrence.
- b. Not less than \$100,000 for property damage for each occurrence.
- c. A combined single limit of \$300,000 for bodily injury and property damage.

2. All Other License Categories:

- a. Not less than \$100,000 for bodily injury for each occurrence.
- b. Not less than \$25,000 for property damage for each occurrence.

The license fee is \$50 annually. Please allow four weeks to process the license.

If you have any questions or would like to know if you fit the commercial criteria, contact the MDA, Pesticide and Plant Pest Management Division, telephone: (517) 373-1087.

F. Public Act 189 of 1931:

In accordance with Section 6 of Public Act 189 of 1931, nursery stock purchased from Conservation Districts may not be resold with roots attached.

What the District Law Says About Selling Conservation Species

Section 9308 of the Conservation District Law, Public Act 451 of 1994, as amended, states the following in regard to Districts selling conservation species:

“To make available, on the terms it prescribes, to landowners or their designated representatives within the District and to other Conservation Districts in Michigan, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and other material or equipment as will assist landowners or their designated representatives to carry on operations upon their lands for the conservation of farmland and natural resources and for the prevention and control of soil erosion.

“To engage in plant rescue operations and to propagate, plant, harvest, and, subject to section 9304a, sell only conservation species on the list established in section 9304a (see the appendix for more information). A Conservation District that violates this subdivision is subject to a civil fine of not more than \$100.00 per day of violation. An action to enforce this subdivision may be brought by the state or a county in the circuit court for the county in which the Conservation District is located or in which the violation occurred.”

Section 9304a. of the Conservation District Law states:

“The conservation species advisory panel is created within the department. The conservation species advisory panel shall consist of the following members selected by the director of the department and approved by the commission of agriculture:

- (a) Two representatives of the department as follows:
 - (i) One individual from the Pesticide and Plant Management Division or its successor agency.
 - (ii) One individual from the Environmental Stewardship Division or its successor agency.
- (b) One individual representing the Department of Natural Resources.
- (c) One individual representing the Natural Resources Conservation Service.
- (d) Two representatives from Michigan State University as follows:
 - (i) One individual from the Department of Horticulture or its successor department.
 - (ii) One individual from the Department of Forestry or its successor department.
- (e) One individual representing Conservation Districts.

(f) One individual from a statewide organization representing nursery and landscaping interests in the state.

(g) One individual from a statewide organization representing seedling growers' interests in the state.

By December 1 of each year, the conservation species advisory panel shall establish a list of conservation species for the following calendar year that may be propagated, planted, harvested, sold, or rescued as part of a plant rescue operation. However, conservation species on this list that are propagated, planted, or rescued during that calendar year may be sold, removed, or reestablished in subsequent years even if the species is removed from the list in a subsequent year.

A copy of the current Conservation Species List should be on file at every Conservation District office. For more information, please contact the Michigan Department of Agriculture, Pesticide and Plant Pest Management Division at (517) 373-1087.